

AMENDMENT

U.S. Appln. No. 08/538,790

Claim 55. An expression vector comprising the cDNA insert of Claim 54.

Claim 56. A host cell transformed or transfected with a expression vector of Claim 55.

Claim 57. A process for preparing a LERK-6 polypeptide, comprising culturing a host cell of Claim 56 under conditions promoting expression of LERK-6 polypeptide, and recovering the LERK-6 polypeptide so expressed. --

REMARKS

Support for new Claims 53-57 can be found, *inter alia*, in pages 17-21 and Example 1 of the present specification. Hence, new Claims 53-57 do not constitute new matter, and thus entry is requested.

On page 2 of the Office Action, the Examiner notes that the claims presented in the Supplemental Amendment filed June 30, 2000 have been re-numbered as Claims 29-52, because there were previously 27 claims presented in the application.

Applicants would like to thank the Examiner for correcting this obvious error and entering the Supplemental Amendment.

On page 3 of the Office Action, the Examiner rejects Claims 29-52 under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative, under 35 U.S.C. § 103 as being obvious over Flanagan.

For the following reasons, Applicant respectfully traverses the Examiner's rejection.

Claims 29-52 are directed to a DNA molecule encoding a polypeptide having mouse LERK-6 sequences, as well as an

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expression vector comprising the same, a host cell comprising the same and a process for producing said polypeptide. New Claim 53 is directed to recombinant phage λ gt10 vector clone λ 13M LERK-6 having ATCC No. 75829; and new Claims 54-57 are directed to the cDNA insert in recombinant phage λ gt10 vector clone λ 13M LERK-6, an expression vector comprising the same, a host cell comprising the same and a process for producing a LERK-6 polypeptide employing the same.

To expedite prosecution, Applicant submits herewith a copy of the ATCC deposit receipt and a Statement of Availability with respect to recombinant phage λ gt10 clone vector λ 13M LERK-6 having ATCC No. 75829.

In any event, Applicants respectfully submit that Flanagan is not prior art with respect to the present claims. That is, even assuming *arguendo*, that Flanagan has an effective filing date under 35 U.S.C. § 102(e) of September 19, 1994, this date is a mere two weeks prior to Applicant's effective filing date of October 5, 1994.

In order to demonstrate that Applicant conceived and reduced to practice the invention claimed in the present invention prior to September 19, 1994, assuming *arguendo*, that Flanagan has an effective filing date of September 19, 1994, and thereby remove Flanagan as prior art against the present claims, Applicant submits herewith a Declaration under 37 C.F.R. § 1.131.

Accordingly, Applicant respectfully submit that Flanagan is not effective prior art, and thus request withdrawal of the Examiner's rejection.

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In view of the arguments set forth above, reexamination, reconsideration and allowance are respectfully requested.

The Examiner is invited to contact the undersigned at his Washington telephone number on any questions which might arise.

Respectfully submitted,

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